

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: ETHICON, INC. PELVIC REPAIR SYSTEM PRODUCTS LIABILITY LITIGATION	Master File No. 2:12-MD-02327 MDL No. 2327
THIS DOCUMENT RELATES TO ETHICON WAVE 5 CASES	JOSEPH R. GOODWIN U.S. DISTRICT JUDGE

**DEFENDANTS' MOTION TO EXCLUDE CERTAIN
GENERAL OPINIONS OF DANIEL ELLIOTT, M.D.**

Defendants Ethicon, Inc., Ethicon LLC, and Johnson & Johnson (hereinafter “Defendants”) move to exclude certain general opinions of one of Plaintiffs’ experts, Daniel Elliott, M.D., that are improper, irrelevant, unreliable, and/or are beyond his expertise as a urologist. Specifically, Defendants request that the Court preclude Dr. Elliott from: (1) Testifying that the Defendants’ devices are not safe in the treatment of stress urinary incontinence, because such opinions are unreliable and based on a standard different from that which he employs in his medical practice; (2) Testifying that other surgical approaches are safer alternatives to the devices at issue, because such procedures are not alternative designs and are irrelevant to a design-defect claim, and because such opinions are unreliable; (3) Comparing TVT Secur with other medical devices because such testimony is inadmissible, unreliable and irrelevant; (4) Offering design opinions, including opinions regarding laser-cut mesh versus mechanically-cut mesh and opinions regarding mesh weight and pore size, because he is not qualified to do so, and his opinions are unreliable and not offered within a reasonable degree of medical certainty; (5) Offering biomaterials opinions, including testimony about alleged mesh

degradation, shrinkage, and other deformations opinions, because he is not qualified to do so and such opinions are unreliable, irrelevant, and/or otherwise improper; (6) Testifying about alleged conditions, because such opinions are irrelevant, highly inflammatory, and prejudicial; (7) Offering warning opinions, because he is not qualified to do so and such opinions are inadmissible; (8) Testifying about testing, adverse event reporting, or training, because he is not qualified to do so and such opinions are irrelevant, speculative, and unreliable; (9) Offering opinions beyond Dr. Elliott's expertise and/or that are otherwise improper, because he is not qualified to do so and such opinions are speculative, unreliable, and/or is merely based on a narrative summary of Defendants' documents; and (10) Offering opinions about TVT Exact, because Plaintiffs have not disclosed any opinions of Dr. Elliott related to the TVT Exact.

As grounds for this motion, Defendants submit that Dr. Elliott cannot provide reliable, trustworthy and/or admissible testimony about these topics under the standard set forth in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993). In support of this motion, Defendants incorporate by reference its supporting memorandum of law and the following exhibits:

Exhibit	Description
Ex. A	Plaintiff List
Ex. B	CV of Dr. Daniel Elliott
Ex. C	TVT Report
Ex. D	TVT-O Report
Ex. E	TVT Secur
Ex. F	Prolift Report
Ex. G	September 26, 2015 Deposition of Daniel Elliott

Ex. H	Heinonen 10-year TVT study
Ex. I	AUA Guideline
Ex. J	Society of Gynecological Surgeons' meta-analysis and systematic review
Ex. K	Memorandum of Opinion from <i>Brooks v. Ethicon, Inc.</i>
Ex. L	November 15, 2012 Deposition of Daniel Elliott
Ex. M	November 16, 2012 Deposition of Daniel Elliott
Ex. N	Burch Study
Ex. O	Mayo Clinic Advertisement
Ex. P	Cochrane Review

WHEREFORE, FOR THESE REASONS and as more fully set forth in Defendants' supporting memorandum of law, Defendants respectfully request that this Court enter an order granting Defendants' Motion to Exclude Certain General Opinions of Daniel Elliott, M.D.

Respectfully Submitted,

/s/ Christy D. Jones

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CERTIFICATE OF SERVICE

I, Christy D. Jones, certify that on this day I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

/s/ Christy D. Jones

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